



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-844]

CERTAIN DRILL BITS AND PRODUCTS CONTAINING SAME

DETERMINATION TO REVIEW AN INITIAL DETERMINATION; ON REVIEW, AFFIRMANCE OF GRANT OF SUMMARY DETERMINATION ON THE MERITS; TERMINATION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (“ID”) (Order No. 9) of the presiding administrative law judge (“ALJ”) granting summary determination of no importation and terminating the investigation. On review, the Commission has determined to affirm the ALJ’s grant of summary determination of no importation on the merits and terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2012, based on a complaint filed by Boart Longyear Company and Longyear TM, Inc. both of South Jordan, Utah. 76 *Fed. Reg.* 32997 (June 4, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain drill bits and products containing the same by reason of infringement of certain claims of United States Patent Nos. 7,828,090; 7,874,384; and 8,051,929. The notice of investigation named the following entities as respondents: Boyles Bros Diamantina S.A. of Lima, Peru; Christensen Chile S.A. of Santiago, Chile; Diamantina Christensen Trading Inc. of Panama; and Intermountain Drilling Supply Corp. of West Valley City, Utah.

On June 11, 2012, Respondents filed a motion for summary determination of no importation pursuant to 19 U.S.C. §1337(a)(1)(B). On June 21, 2012, Complainants filed an opposition to the motion. On July 10, 2012, the ALJ issued the subject ID, granting Respondents' motion for summary determination of no importation and terminating the investigation.

On July 24, 2012, Complainants filed a petition for review of the ID. Respondents filed an opposition to Complainants' petition on July 31, 2012.

Having examined the record of this investigation, including the ALJ's ID, the petition for review, and the response thereto, the Commission has determined to review the ID. On review, the Commission affirms the ALJ's grant of summary determination of no importation but does not adopt any statements in the ID to the effect that the determination is on jurisdictional grounds. Specifically, the Commission finds that the ALJ's determination appropriately

considers the merits, and the Commission affirms the ALJ's determination on the merits.

Complainants may re-file their complaint if they can make an allegation of importation into the United States, the sale for importation, or the sale within the United States after importation of accused products after issuance of the asserted patents.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.42-46 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42-46).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

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